

Site Plan Review Ordinance for Commercial Development in the Town of Appleton, Maine

SECTION 1.	Title
SECTION 2.	Purpose
SECTION 3.	Applicability
SECTION 4.	Performance Standards
SECTION 5.	Authority, Administration
SECTION 6.	Site Plan Content and Application Procedures
SECTION 7.	General Provisions
SECTION 8.	Performance Guarantees
SECTION 9.	Violation, Enforcement and Fines
SECTION 10.	Validity and Separability
SECTION 11.	Conflict with Other Ordinances
SECTION 12.	Appeals
SECTION 13.	Amendments
SECTION 14.	Definitions
SECTION 15.	Effective Date
SECTION 16.	Certificate of Adoption

SECTION 1. Title

This ordinance shall be known as and may be cited as the Site Plan Review Ordinance for the Town of Appleton, Maine and will be referenced to herein as the “Ordinance.”

SECTION 2. Purpose

Substantial development or major changes in the use of land can cause a profound impact upon the cost and efficiency of municipal services and upon the environment of the Town. Such development can affect schools, sewers, waterlines and other public utilities; recreational facilities; liquid and solid waste disposal, police and fire protection, open space, road systems and circulation, traffic congestion; placement of building(s) and structure(s), property values; water quality; the aesthetic and visual characteristics of the neighborhood and Town, the general health, safety, and welfare of Appleton. It is the purpose of this Ordinance to avoid such negative effects when caused by development(s) including commercial, retail, industrial, institutional building(s) and structure(s) and multiple family dwelling(s) consisting of three (3) or more attached dwelling units.

SECTION 3. Applicability

This ordinance shall apply to all new commercial, retail, industrial, or institutional developments in the Town of Appleton including:

- buildings and structures
- alterations or substantial enlargements to such structures
- change of use of an existing building or structure from residential to non-residential
- change of use from one category of nonresidential use to another category of nonresidential use
- new nonresidential uses even if no buildings or structures are proposed (e.g. – cemeteries, golf courses, and other nonstructural, nonresidential uses)
- new nonresidential uses using existing buildings or structures
- accessory uses and structures of these developments or businesses
- multiple family dwellings consisting of three or more attached dwelling units

This ordinance does not apply to home occupations (as defined herein), detached single and two-family dwelling units, their accessory structures, agricultural land management practices, or forest management practices.

SECTION 4. Performance Standards

In approving a Site Plan for Development Application (SPDA) the Planning Board shall first determine that the requirements for site plan content and application procedures have been met. Following such determination, the Board shall proceed to find that the proposed plan adequately meets the following standards, where applicable to the proposed development. These standards shall serve as minimum requirements for approval of the SPDA. The SPDA shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one (1) or more of these standards. All decisions of the Planning Board under this section shall be accompanied by written statements that set forth the precise reasons why the findings were made. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application. These standards shall include:

1. **Preservation and Enhancement of The Landscape:** The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.
2. **Relationship of the Proposed Buildings to the Environment:** Proposed structures shall be related harmoniously to the terrain and to existing buildings in the

vicinity which have visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways.

3. **Vehicular Access:** The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

4. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

5. **Surface Water Drainage:** Adequate provision shall be made for surface water drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from site.

6. **Existing Utilities:** The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.

7. **Advertising Features:** The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of structures and surrounding properties.

8. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

9. **Exterior Lighting:** All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

10. **Municipal Services:** The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open space, recreational programs and facilities, and other municipal services and facilities.

11. **Water Pollution:** The proposed development will not result in undue water pollution. In making this determination the Planning Board shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and sub-soils and, if necessary, their ability to adequately support waste disposal and/or any other D.E.P. approved licensed discharge; the slope of the land and its effect on effluents; the aquifers and aquifer recharged areas; the availability of streams for disposal of surface run-off; the applicable federal, state, and local laws, ordinances, codes and regulations.

12. **Air Pollution:** The proposed development will not result in undue air pollution. In making this determination the Planning Board shall consult federal and state authorities to determine applicable air quality laws and regulations.

13. **Water Supply:** The proposed development shall have sufficient water available for the reasonably foreseeable needs, and will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

14. **Soil Erosion:** The proposed development will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

15. **Sewage:** The proposed development will provide for adequate sewage waste disposal as required by state laws.

16. **Historic and Scenic Areas:** The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

17. **Shoreline:** Whenever situated in whole or in part, within 250 feet of any pond, lake, or river, the proposed development will not adversely affect the shoreline of such body of water.

SECTION 5. Authority, Administration, and Conflict of Interest

A. Authority:

This Ordinance is adopted pursuant to the Home Rule Powers as provided for in Article VIIIA of the Maine Constitution and Title 30-A M.R.S.A. Section 3001.

B. Administration:

1. The Planning Board of the Town of Appleton shall administer this Ordinance.

2. No building permit or plumbing permit or certificate of occupancy shall be issued by the Selectmen or Code Enforcement Officer or plumbing inspector for any use or development within the scope of this Ordinance until a Site Plan for Development Application has been reviewed and approved by the Planning Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member of either the Planning Board or Board of Appeals from voting thereon, shall be decided by a majority vote of the respective Boards, except the member whose potential conflict is under consideration.

SECTION 6. Site Plan Content and Application Procedures

A. The Site Plan for Development Application shall include, at a minimum:

1. A map or maps prepared at a scale of not less than one (1) inch to 50 feet and shall include:
 - a. Name and address of the applicant or his/her authorized agent, name of proposed development (if applicable), tax map and lot number of land within 500 feet of the proposed development in which the applicant has right, title or interest, scale, and north point;
 - b. Existing soil conditions on the site as described by either a soil scientist, geologist, engineer, or Soil Conservation Service medium intensity soil survey;
 - c. Municipal tax maps, lot numbers, and names of abutting landowners;
 - d. Perimeter survey of the parcel, certified by a registered land surveyor relating to reference points. Showing true north point, graphic scale, corners of parcel, date of survey, and total acreage. Areas within 500 feet of the proposed development site shall be included;
 - e. Existing structures, proposed development, and dimensions of: utility lines, sewer lines, water lines, easements, drainage ways, and public or private rights-of-way;
 - f. Location, ground floor area, elevations of buildings and other structures on parcels abutting the site;
 - g. If the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, wells, steep slopes, proposed disposal location, design of the best practical subsurface disposal system and other pertinent existing physical features;
 - h. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public streets, and curb and sidewalk lines;
 - i. Landscaping plan showing location, type, approximate size of plantings, location and dimensions of all fencing and screening;
 - j. Topography indicating contours at intervals of either 5, 10 or 20 feet in elevation as specified by the Planning Board;
 - k. Location of aquifers and aquifer recharge areas (if mapped); and

1. Location of watercourses, marshes, rock outcroppings, wooded areas, and single trees with a diameter of 10 inches measured three feet from the base of the trunk.
2. A written statement by the applicant that shall consist of:
 - a. Evidence by the applicant of his/her title and interest in the land proposed for development;
 - b. A description of the proposed use(s) to be located on the site, including quantity
 - c. Total floor area of each proposed building or structure and percentage of lot covered by the total development;
 - d. Existing easements, restrictions, covenants or other restrictions placed on the property, adjacent property, or intersecting the property;
 - e. Method of solid waste disposal with letter from authorities stating approval of the disposal;
 - f. Erosion and sedimentation control plan;
 - g. Copies of letters sent to: the abutting landowners, selectmen, road commissioner/public works director, fire chief, police chief, etc., notifying them of the proposed development;
 - h. Statement of financial capacity, including names and sources of the financing parties including banks, whether these sources of financing are for construction loans or long-term mortgages or both; including governmental agencies, private corporation, partnerships and limited partnerships;
 - i. List of applicable local, state, and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, Great Ponds Act, the flood prone areas subject to the National Flood Insurance Act, etc.;
 - j. In cases where off-site facilities are proposed for primary or secondary use applicants shall provide a statement of evaluation of the availability and suitability of off-site public facilities including sewer, water, and streets;
 - k. A statement from the Fire Chief as to the availability of the fire protection services, including; fire hydrants and/or fire ponds;
 1. If public water and/or sewer are to be used, a statement from the water and/or sewer district, or utility, as to the availability of public water and/or sewer lines;
 - m. A statement from the Road Commissioner and Board of Selectmen that the proposed road or street construction will meet Town specifications.
 - n. A proposed start-up date and completion date, specifying start-up and completion phase dates, if applicable.

B. Traffic Data:

A plan may be required to have an accompanying traffic engineering study should the project propose a total building coverage in excess of 5,000 square feet (ground floor area) or an area in excess of 30,000 square feet which is to be roofed, paved, or stripped of vegetation. Should a traffic study be requested by the Planning Board, the following data shall be included:

1. The estimated peak-hour traffic to be generated by the proposal.
2. Existing traffic counts and volumes on surrounding roads.

3. The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation.
4. The need for traffic signals and signs or other directional markers to regulate anticipated traffic.

C. Application Procedures:

1. The application shall be filed with the Planning Board for review and accompanied by a fee of \$1.00 for every \$1,000 of proposed construction money. In addition, the Planning Board may set an amount to be added to the base fee paid by the developer, sufficient to enable the Board to secure outside technical assistance in reviewing the proposed development, if, in the Board's sole discretion, such assistance will be required. Within 30 days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least 10 days prior to the hearing in a newspaper of area wide circulation. The abutting landowners shall be notified at least 10 days prior to the hearing. Public hearings conducted by the Planning Board shall be in accordance with the procedures outlined in title 30-A M.R.S.A., Section 2691(3).
3. Within thirty (30) days of the public hearing or sixty (60) days of receiving the application, the Planning Board shall make their decision to either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by a written mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall determine findings of fact and notify the applicant in writing of any action taken and the reason for taking such action.

SECTION 7. General Provisions

A. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting land owners and the general health, safety and welfare of the Town.

B. All construction performed under the authorization of a building permit or certificate of occupancy issued for development within the scope of this Ordinance shall be in conformance with the approved site plan.

SECTION 8. Performance Guarantees

A. At the time of approval of the application for Site Plan Review, the Planning Board shall require the applicant to tender a performance guarantee in the form of a certified check payable to the Town, a letter of credit payable to the Town or a performance bond payable to the Town issued by a financial institution or surety company acceptable to the Planning Board in an amount adequate to cover the total costs of all **required improvements**, taking into account the time-span of the performance guarantee and the effects of inflation upon costs. Required improvements may include but shall not be limited to monuments, street signs, streets, sidewalks, parking lots, water supply, sewage disposal and storm drainage facilities and required landscaping. The conditions and the amount of the certified check, letter of credit or bond shall be determined by the Planning Board with Advice from the Code Enforcement Officer.

B. Prior to the release of the check, letter of credit, or bond, or any part thereof, the Planning Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.

C. If the Planning Board determines that any of the improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the Planning Board shall then notify the applicant, and take all necessary steps to preserve the Town's rights.

D. The applicant shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements, so that the Code Enforcement Officer can ensure that all municipal specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

SECTION 9. Violation, Enforcement and Fines

A. **Violation and Enforcement:** The Planning Board, the Selectmen, or the appropriate municipal office, upon a finding that any provision of this Ordinance or the condition(s) of a permit issued under this ordinance is being violated, are authorized to institute legal or equitable proceedings to enjoin violations of this Ordinance.

B. **Fines:** As provided by State Law a person who violates the provisions of this Ordinance or condition(s) of a permit shall be guilty of a civil violation and on conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Five Hundred (\$2,500.00). Each day such violation continues, shall constitute a separate

violation. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the municipality.

SECTION 10. Validity and Separability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

SECTION 11. Conflict with Other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements will apply.

SECTION 12. Appeals

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting land owner or aggrieved party, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting land owner, or aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within thirty (30) days of the Planning Board's decision. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing and may grant a variance as defined herein. Public Hearings shall be held in accordance with title 30-A M.R.S.A., Section 2691.

SECTION 13. Amendments

This Ordinance may be amended by a majority vote at a regular or special town meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or by petition directed to the Selectmen containing a number of signatures at least equal to 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment at least fourteen (14) days in advance of the town meeting.

SECTION 14. Definitions

Terms not defined shall have the customary dictionary meaning. When used in this Ordinance, the following terms shall have the meanings herein ascribed to them:

Aggrieved Party - A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of five (5) or more citizens of the Town of Appleton who represent an interest adverse to the grant or denial of such a permit or variance.

Agricultural Development - The construction or conversion of structures or buildings or the conversion of land for the commercial cultivation, production, or processing of agricultural products.

Agricultural Land Management Practices - Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil water resources.

Alteration - Structural change(s), rearrangement, change of location, or addition to a building, or structure other than repairs and modification in building equipment, involving more than 25% increase in the overall floor space or bulk of the building, or structure, at any time or in total, since the effective date of this Ordinance.

Building - Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.

Change from one category of nonresidential use to another category of nonresidential use: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

Commercial - Connected with the buying and selling of goods or services or the provisions of facilities for a fee.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for one family including provisions for living, cooking and eating.

Family - An individual living upon the premises as a separate housekeeping unit; or a collective body of persons living together upon the premises as a single housekeeping unit.

Forest Management Practices - Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation, or maintenance of land management roads.

Home Occupation – an occupation or profession which is customarily conducted on or in a residential structure or property, and meets the following requirements:

- is clearly incidental to and compatible with the residential use of the property and surrounding residential uses
- at least one member of the residential household must own the business, be actively involved in the business, and have control over the business activities

- employs no more than two full-time or part-time persons working on the premises other than family members residing in the home
- does not display sign(s) with a total area of more than 16 square feet

Industrial - Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

Institutional - A building devoted to a public, governmental, educational, charitable, medical or similar purpose.

Lot - A parcel of land undivided by any street or private road, in single ownership, described by deed, plot, or similar legal document. Occupied by, or designated to be developed for, one (1) building or principle use and the accessory building(s) or use(s) customarily incidental to such building, use or development, including such open spaces and yards as designed and arranged or required by this Ordinance for such building(s), use(s), or development.

Multiple Family Dwelling - A building(s) consisting of three (3) or more attached dwelling units.

Person(s) - Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, State agency, educational or charitable organization or institution or other legal entity.

Principle Building or Use - See Building, Principal.

Recreational Vehicle - A Vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons, which is not a dwelling unit and which may include a pick-up, camper, travel trailer, tent trailer, or motor home.

Retail - Connected with the sale of goods to the ultimate consumer for direct use and consumption.

Stand - A small open-air structure for a small retail business.

Structure - Anything constructed, erected, or placed, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground including, but not limited to buildings, recreational vehicles, piers and floats.

Accessory Use or Structure - A subordinate use of a building, other structure, or land, or a subordinate building or other structure:

1. Whose use is customary in connection with the principal structure, or use of land;
2. Whose use is clearly incidental to the use of the principal structure, or use of land, and
3. Which is located on the same lot with the principal structure, accessory structure, or

use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

Substantial Enlargement - An expansion of the land area of the development site by more than 25 % at any one time or in total since the effective date of this ordinance.

Timber Harvesting - The cutting or removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Variance - A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship (as defined in Title 30-A M.R.S.A. Section 4353 (4) and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

SECTION 15. Effective Date

The effective date of this ordinance or any amendments thereto shall be the day immediately following its/their adoption at a regular or special town meeting. The effective date of this Ordinance is June 15, 2022. A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk, according to the requirements of State law, and shall be accessible to any member of the public. The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.

A True Attest Copy:
Anita Wellman

Original – 11/04/1986 – Annual Town Meeting – Article #1
Amended – 06/18/2005 – Annual Town Meeting – Article #6
Amended – 06/13/2012 – Annual Town Meeting – Article #32
Amended – 06/12/2013 – Annual Town Meeting – Article #31, Article #32, Article #33
Amended - 06/15/2016 - Annual Town Meeting - Article #30
Amended – 06/14/2022 – Annual Town Meeting – Article #37

**Certification of the final draft of the proposed Site Plan Review Ordinance to be
voted on June 14, 2022**

**Given under our hands at Appleton, Maine this _____ of _____ 2022.
Appleton Select Board:**

Lorie Costigan, chair

Peter Beckett, vice chair

Marci L. Blakely

Scott Esancy

Charles Garrigan

**Attest: A true copy of an ordinance entitled Site Plan Review Ordinance as certified
to me by the municipal officers of Appleton, Maine this _____ of _____ 2022**

Appleton Town Seal

Appleton Town Clerk

Date